

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION NO. 1035 OF 1999

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

SINGAPORE AIR LINES
VERSUS
HI-REL ELECTRONICS PVT. LTD.& ORS.

Appearance:

Mr.S.A. Desai for petitioner
Mr.A.G. Gandhi for Respondent No.1
Mr.P.A. Mehta for Respondent No.2
Mr.P.V. Nanavati for Respondent No.4
None present for Respondent No.3

Coram: MR.JUSTICE S.K. Keshote,J

Date of decision: 30/12/1999

C.A.V. JUDGMENT

#. Heard the learned counsel for the parties.

#. The learned counsel for plaintiff-respondent No.1 has no objection to set aside the impugned order of the learned trial court dated 15th March 1999 below ex.26 in Civil Suit No.6080 of 1988 and to give directions to the learned trial court to decide afresh the application filed by it for amendment of the plaint after hearing the parties concerned in accordance with law.

#. In view of this concession made by learned counsel for respondent No.1, this civil revision application deserves to be allowed and accordingly the same is allowed and the order impugned in this civil revision application is quashed and set aside and the learned trial court is directed to decide application of the plaintiff-respondent No.1 filed under Order 6, Rule 17 of the Civil Procedure Code for amendment of the plaint after hearing the learned counsel for the parties in accordance with law. Rule is made absolute in aforesaid terms. No order as to costs.

#. The order was kept C.A.V. as the court had to consider the propriety and justification in the approach of the action of the petitioner to implead respondents No.2, 3 and 4 as party to this civil revision application. The application which has been decided under the impugned order has been filed by plaintiff respondent No.1 for impleading of petitioner as party and for decision of this revision application, the plaintiff-respondent No.1 and petitioner were only necessary party. The respondents No.2, 3 and 4 have nothing to say or in fact are concerned with this application. In fact, this application was filed by plaintiff-respondent No.1 on the pleadings of respondent No.2. It is true that the petitioner was aggrieved of the order impugned in this civil revision application and this revision application has been filed to challenge it but in case this matter would have been examined, certainly the petitioner would not have impleaded the respondents No.2, 3 and 4 as party to this civil revision application. In fact, the plaintiff-respondent No.1 is the only necessary party to this civil revision application. The petitioner is not claiming any relief against respondents No.2, 3 and 4. They are neither necessary or proper party to this civil revision application but still they have been engaged and as a result thereof, the respondent No.2 has been saddled with heavy expenses of payment of fees to the counsel. The respondent No.4 has also been saddled with expenses of

payment of fees to its advocate. Be that as it may, the respondents No.2, 3 and 4 also ought to have examined the matter with their legal departments or taken help of their standing counsel as to whether they have to put appearance in this civil revision application or not. In case this matter would have been examined, I am confident that the advice would have been not to appear in this revision application, but the officers of these respondents are also not taken care of the matter and without examining the matter on receipt of notice from the court, they are instructing the advocates to appear in the matter. Once an advocate is instructed to appear in the case, naturally, he is entitled for professional fees. Money of respondents No.2 and 4 is people's money and it should not have been permitted to be wasted in a litigation in which they were neither necessary or proper party. I may reasonably believe and accept that Air India International would have a legal cell where a legal officer would have been there. Same is position with respondent No.4. What for these legal officers are there in the offices of these two respondents if they are not examining simple matters. It is a sheer wastage of people's money in this case and it has resulted because the petitioner as well as the offices of both these respondents have not taken the matter seriously.

#. The learned counsel for the petitioner, on being put by the court felt contended to submit that in case these respondents would not have been made party to the civil revision application, the office would have raised objection and the matter would not have been circulated. The office raises objection regarding impleadment of the parties in the revision application if the parties are not carried out as what they are in the plaint, and the matter may not be circulated. I fail to see, merely because this objection would have been raised by registry, and to avoid this objection being raised by registry, any justification in the action of the petitioner to implead these respondents as party to this civil revision application who are neither necessary or proper party to it. The petitioner could have made mention before the Court and certainly on his request, the court would have ordered for circulation of this revision and the objection, if any raised, could have been ordered to be waived. It is not unknown that matters wherein office objections are raised are being circulated on the request of learned counsel for the petitioner by the court, but the petitioner, instead of doing its duty and to be fair and reasonable to the other side, has adopted the course which is most undesirable and which results in heavy cost of litigation to

respondents No.2 and 4. Though at one point of time, I thought of to impose cost upon the petitioner, but as the respondents No.2 and 4 are also equally responsible in the matter for their appearance, I do not consider it to be appropriate to impose any costs. However, it is expected of the members of the Bar to see and be careful in impleading parties in the revision application, appeal from orders, second appeals, first appeals or any other proceedings so that unnecessary parties are not dragged in litigation and only those parties are impleaded who are necessary in the proceedings. If office objections are being raised in this respect, it is always open to the parties and their advocates to make request for circulation of the matter to the court and the court, if such a request is made, will certainly grant it accordingly.

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[sunil]